

United States DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	15CR00095(WFK)
	:	
	:	
-against-	:	United States Courthouse
	:	Brooklyn, New York
	:	
	:	
AKHROR SAIDAKHMETOV,	:	Thursday, January 19, 2017
	:	2:30 p.m.
Defendant.	:	
	:	
	:	

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TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING  
BEFORE THE HONORABLE WILLIAM F. KUNTZ, II  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

For the Government: ROBERT L. CAPERS, ESQ.  
United States Attorney  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, New York 11201  
BY: DOUGLAS PRAVDA, ESQ.  
DAVID KESSLER, ESQ.  
Assistant United States Attorney

For THE DEFENDANT: ADAM D. PERLMUTTER, ESQ.  
260 Madison Avenue, Suite 1800  
New York, New York 10016

INTERPRETER:  
Sanjar Babadjanov

Court Reporter: SOPHIE NOLAN, RPR  
225 Cadman Plaza East/Brooklyn, NY 11201  
NolanEDNY@aol.com

Proceedings recorded by mechanical stenography, transcript  
produced by Computer-Aided Transcription.

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1 THE COURTROOM DEPUTY: The Honorable William F.  
2 Kuntz, II is now presiding. Criminal cause for pleading.  
3 Docket number 15-cr-001595. USA v. Saidakhmetov.

4 Counsel, please state your appearances for the  
5 record and spell your first and last names for the Court  
6 Reporter including the Uzbek interpreter.

7 MR. PRAVDA: Good afternoon, Your Honor. Douglas  
8 Pravda, P-R-A-V-D-A, and Kessler is K-E-S-S-L-E-R.

9 THE COURT: Good afternoon. Please be seated and  
10 remain seated for the balance of the proceeding.

11 MR. PERLMUTTER: Good afternoon, Your Honor. For  
12 Akhror Saidakhmetov, Adam Perlmutter, P-E-R-L-M-U-T-T-E-R.  
13 Good afternoon, Your Honor.

14 THE COURT: Good afternoon. And with today you at  
15 counsel table is?

16 MR. PERLMUTTER: Your Honor, we have two  
17 court-furnished Uzbek translators and I have to confess I  
18 don't have their names off the top of my head.

19 THE COURT: I bet they have their names off their  
20 names off the top of their heads. I wanted to have you  
21 acknowledge on the record that your client is present.

22 MR. PERLMUTTER: Yes, Judge. My client is produced.  
23 He is standing to my right.

24 THE COURT: I'm going to ask the interpreter to  
25 identify himself and spell his name, please.

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1 THE INTERPRETER: Uzbek interpreter, Sanjar  
2 Babackanov, S-A-N-J-A-R, B-A-B-A-C-K-A-N-O-V.

3 THE COURT: And you were previously sworn?

4 THE INTERPRETER: Yes.

5 THE COURT: Are there any other counsel who wish to  
6 state their appearances for the record? Hearing none, I am  
7 going to ask Mr. Jackson to please swear the defendant.

8 A K H R O R S A I D K H M E T O V, sworn.

9 THE COURT: What was his answer?

10 THE DEFENDANT: Yes.

11 THE COURT: Please be seated. Thank you. Good  
12 afternoon, Mr. Saidakhmetov. Where were you born?

13 THE DEFENDANT: Kazakhstan.

14 THE COURT: What is your date of birth?

15 THE DEFENDANT: 25th June.

16 THE COURT: Of what nation are you a citizen?

17 THE DEFENDANT: Kazakhstan.

18 THE COURT: And again your birthday was what year?

19 THE DEFENDANT: 1995, 26th June.

20 THE COURT: How old are you today, sir?

21 THE DEFENDANT: Twenty-one.

22 THE COURT: Beginning with grammar school, the first  
23 school you attended, please describe your educational  
24 background.

25 THE DEFENDANT: I graduated high school in

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1 Uzbekistan and when I came here I was studying in high school  
2 again from ninth grade, but I never graduated it.

3 THE COURT: How far did you get in school? What was  
4 the highest grade you completed?

5 THE DEFENDANT: Tenth.

6 THE COURT: After the tenth grade, what did you do?

7 MR. PERLMUTTER: One second, Your Honor.

8 (Pause in the proceedings.)

9 THE DEFENDANT: I finished the ninth grade, but I  
10 didn't finish the tenth grade.

11 THE COURT: Okay. When you left school, what did  
12 you do?

13 THE DEFENDANT: I was trying to go for GED. Trying  
14 to study GED.

15 THE COURT: You were trying to go to school, /is  
16 that what you said?

17 THE DEFENDANT: Yes.

18 THE COURT: What school were you trying to attend?

19 THE DEFENDANT: It was a college, but I cannot  
20 recall the name right now.

21 THE COURT: Did you go to work at some point?

22 THE DEFENDANT: Yeah, I was working in -- in Georgia  
23 in the mall.

24 THE COURT: Georgia, Russia?

25 MR. PERLMUTTER: No, Georgia, United States in a

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1 mall.

2 THE COURT: Let me ask the witness not the lawyer.  
3 Georgia, United States, sir?

4 THE DEFENDANT: Yes.

5 THE COURT: In what city in Georgia?

6 THE DEFENDANT: Savannah.

7 THE COURT: Why don't we have you translate. If he  
8 says "Savannah" you say "Savannah" because that will be  
9 clearer for the Court and for the record as well.

10 What did you do in Savannah, Georgia?

11 THE DEFENDANT: I was working in the mall and at a  
12 store where they're fixing phones. I was learning how to fix  
13 the screens on the phones.

14 THE COURT: Have you taken any drugs, any medicines,  
15 any pills or consumed any alcoholic beverage within the past  
16 24 hours?

17 THE DEFENDANT: No.

18 THE COURT: Do you understand what is happening  
19 today.

20 THE DEFENDANT: Yes, I do.

21 THE COURT: Defense counsel, do you have any doubts  
22 as to your client's competence to proceed at this time?

23 MR. PERLMUTTER: No, Your Honor.

24 THE COURT: Mr. Prosecutor, do you have any doubt as  
25 to the defendant's competence to proceed at this time?

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1 MR. PRAVDA: No, Your Honor.

2 THE COURT: The court hereby finds, based on the  
3 defendant's representations, and the representations of all  
4 counsel of record that the defendant is competent.

5 May I have the superseding indictment marked as  
6 Court Exhibit 1 for identification, please?

7 (Court Exhibit 1, marked for identification.)

8 THE COURT: Thank you.

9 THE COURTROOM DEPUTY: You're welcome.

10 THE COURT: The court has what has been marked as  
11 Court Exhibit 1 for identification, the superseding indictment  
12 in this case. The grand jury charge is as follows: Count  
13 One: Conspiracy to provide material support to a foreign  
14 terrorist organization; one, in or about and between August of  
15 2014 and February of 2015, both dates being approximate and  
16 inclusive, within the Eastern District of New York and  
17 elsewhere, the defendants Akhror Saidakhmetov, Abror Habibov,  
18 Azizjon Rakhmatov also known as 'Abdulaaziz' and 'Abdul  
19 Azizz,' Akmal Zakirov and Dilkhayot Kasimov, together with  
20 others did knowingly and intentionally conspire to provide  
21 material support and resources as defined in Title 18, United  
22 States Code, Section 2339A(b), including services and  
23 Saidakhmetov and Abdurasul Juraboev as personnel, to a foreign  
24 terrorist organization, to wit: the Islamic State of Iraq and  
25 the Levant. (Title 18 United States Code, Section 2339B(a)(1)

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1 and 3551 et seq.)

2 Count Two: Attempt to provide material support to a  
3 terrorist organization. 2. In or about and between August  
4 2014 and February 2015, both dates being approximate and  
5 inclusive within the Eastern District of New York and  
6 elsewhere, the defendants Akhror Saidakhmetov, Abror Habibov,  
7 Azizjon Rakhmatov also known as "Abdulaaziz and Abdul Azizz,  
8 Akmal Zakirov and Dilkhayot Kasimov, together with others did  
9 knowingly and intentionally conspire to provide material  
10 support and resources as defined in Title 18, United States  
11 Code, Section 2339A(b), including services and Saidakhmetov  
12 and Abdurasul Juraboev as personnel, to a foreign terrorist  
13 organization, to wit: the Islamic State of Iraq and the  
14 Levant. Violating Title 18 United States Code, Section  
15 2339B(a)(1), (2) and 3551 et seq.

16 Count three: Conspiracy to use a firearm. 3. In  
17 or about and between January 2015 and February 2015, both  
18 dates being approximate and inclusive, within the Eastern  
19 District of New York and elsewhere, the defendants Akhror  
20 Saidakhmetov, Abror Habibov, Azizjon Rakhmatov also known as  
21 "Abdulaaziz and Abdul Azizz, together with others, did  
22 knowingly and intentionally conspire to use and carry a  
23 firearm during and in relation to one or more crimes of  
24 violence to wit: the crimes charged in Counts One and Two  
25 contrary to Title 18 United States Code, Section 924(c), in

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1 violation of Title 18 United States code Section 924(o) and  
2 3551, et seq.

3 Count four: Travel document fraud. 4, in or about  
4 or between January 2015 and February 2015, both dates being  
5 approximate and inclusive within the Eastern District of New  
6 York and elsewhere, the defendant, Akhror Saidakhmetov,  
7 together with others did knowingly and intentionally make  
8 under oath and knowingly subscribe as true under penalty of  
9 perjury under Section 1746 of Title 28 United States Code, one  
10 or more false statements with respect to one or more material  
11 facts to facilitate an act of international terrorism, to wit:

12 "(a) that Saidakhmetov intended to travel to Turkey,  
13 Uzbekistan and Kazakhstan, when, in fact, as Saidakhmetov then  
14 and there well and believed, he intended to travel to Syria;  
15 and.

16 "(b) that the purpose of Saidakhmetov's travel  
17 'travel' and 'entertainment' when in fact as Saidakhmetov then  
18 and there well knew and believed, the purpose of his travel  
19 was to join the Islamic State of Iraq and the Levant; in an  
20 application required by the immigration laws and regulations  
21 prescribed thereunder, to wit: a Form I-131 Application for  
22 Travel Document, and did knowingly and intentionally present  
23 such application, which such false statements and violating  
24 Title 18 of the United States Code, Sections 1546(a), 2 and  
25 3551 et seq.



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1           A true bill signed by the foreperson of the Grand  
2 Jury signed by Robert Capers, United States Attorney."

3           May I have a motion to have the superseding  
4 indictment Court 1 admitted into evidence please?

5           MR. PRAVDA: The Government moves.

6           THE COURT: Any objection?

7           MR. PERLMUTTER: No objection, Your Honor.

8           THE COURT: It's admitted.

9           (Court Exhibit 1, received in evidence.)

10          THE COURT: Do the parties have a signed copy of the  
11 plea agreement?

12          MR. PERLMUTTER: We have and I handed it to  
13 Mr. Jackson, who's going to hand it to you right now.

14          (Court Exhibit 2, marked for identification.)

15          THE COURT: Thank you. I have a signed copy of the  
16 plea agreement. It is marked as Court Exhibit 2 for  
17 identification. It is dated January 19, 2015, Brooklyn, New  
18 York signed by the United States Attorney's Office, by  
19 Mr. Douglas M. Pravda, the Assistant United States Attorney  
20 approved by Mr. Seth D. DuCharme, Supervising Assistant United  
21 States Attorney.

22          It has been signed by the defendant, Akhror  
23 Saidakhmetov right above his signature is the following  
24 language: "I have read the entire agreement and discussed it  
25 with my attorney. I understand all of its terms and am

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1 entering into it knowingly and voluntarily." It is signed by  
2 the defendant and approved as to form by distinguished  
3 Mr. Adam Perlmutter, counsel for the defendant.

4 May I have a motion to have the plea agreement,  
5 Court Exhibit 2, admitted into evidence, please.

6 MR. PRAVDA: The Government so moves, Your Honor.

7 THE COURT: Any objection?

8 MR. PERLMUTTER: No, Your Honor.

9 THE COURT: The plea agreement reads as follows:  
10 "Pursuant to Rule 11 of the Federal Rules of Criminal  
11 Procedure, the United States Attorney's Office for the Eastern  
12 District of New York and Akhror Saidakhmetov, the defendant,  
13 agree to the following:

14 "1. The defendant this plead guilty to count one of  
15 the above-captioned indictment charging a violation of 18  
16 U.S.C. Section 2339B. The count carries the following  
17 statutory penalties: Maximum term of imprisonment, 15 years;  
18 18 U.S.C. Section 2339B(a)(1).

19 "Minimum term of imprisonment, zero years. Maximum  
20 supervised release term, life, to follow any term of  
21 imprisonment; if a condition of release is violated, the  
22 defendant may be sentenced to up to two years without credit  
23 for prerelease imprisonment or time previously served on  
24 post-release supervision.

25 "D. Maximum fine, \$250,000. E. Restitution in an

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1 amount to be determined by this court. F. \$100 special  
2 assessment. G. Other penalties; removal, as set forth below  
3 in paragraph 6.

4 "2. The defendant understands that although  
5 imposition of a sentence in accordance with United States  
6 Sentencing Guidelines is not mandatory, the guidelines are  
7 advisory and the court is required to consider any applicable  
8 guideline provisions as well as other factors enumerated in 18  
9 U.S.C. Section 3553A to arrive at an appropriate sentence in  
10 this case.

11 "The Office will advise the court and the Probation  
12 Department of information relevant to sentencing including  
13 criminal activity engaged in by the defendant and such  
14 information may be used by the court in determining the  
15 defendant's sentence. See 18 U.S.C. Section 3661.

16 "No limitation shall be placed on the information  
17 concerning the background, character and conduct of a person."

18 THE DEFENDANT: Your Honor, would you please repeat  
19 the last sentence.

20 THE COURT: What we are going to do is we're going  
21 to have the entire document placed in evidence so he will be  
22 able to read it again.

23 Do you have a copy of it?

24 MR. PERLMUTTER: We do not, Your Honor.

25 THE COURT: Why don't you put a copy in front of

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1 him.

2 MR. PERLMUTTER: Thank you, Judge.

3 THE COURT: Is it in front of the defendant now?

4 MR. PERLMUTTER: It is, Your Honor. Thank you.

5 THE COURT: You're welcome.

6 "The Office will advise the Court and the Probation  
7 Department of information relevant to sentencing including  
8 criminal activity engaged in by the defendant and such  
9 information may be used by the court in determining the  
10 defendant's sentence, See 18 U.S.C., Section 3661. ('No  
11 limitation shall be placed on the information concerning the  
12 background, character and conduct of a person convicted of an  
13 offense which a court of the United States may receive and  
14 consider for the purpose of imposing an appropriate sentence.'

15 "The Office estimates the likely adjusted offense  
16 level under the guidelines to be 40, which is predicated on  
17 the following guidelines calculation:

18 MR. PERLMUTTER: One moment, Your Honor.

19 (Pause in proceedings.)

20 MR. PERLMUTTER: You can proceed, Judge. Thank you.

21 THE COURT: Base offense level U.S.S.G. Section  
22 2M5.3(a), 26. Plus: Probation of material support or  
23 resources with the intent, knowledge or reason to believe they  
24 were to be used to commit or assist in the commission of a  
25 violent act, U.S.S.G. Section 2M5.3(b)(1)(E).

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1 "Plus: Terrorism enhancement, U.S.S.G. Section  
2 3A1.4(a), 12. Total: 40.

3 "If the defendant clearly demonstrates acceptance of  
4 responsibility to allocution and subsequent conduct prior to  
5 the imposition of sentence, a two-level reduction will be  
6 warranted pursuant to U.S.S.G. Section 3E-1.1(a) resulting in  
7 an offense level of 38 and the range of imprisonment of 360  
8 months to life, assuming the defendant falls within Criminal  
9 History Category VI.

10 "However, because of the statutory maximum sentence,  
11 the effective guidelines range is 180 months. Furthermore, if  
12 the defendant has accepted responsibility as described above  
13 to the satisfaction of the Office and if the defendant pleads  
14 guilty on or before January 20, 2017 an additional one-level  
15 reduction will be warranted pursuant to U.S.S.G. Section 3B1.1  
16 (b) resulting in an adjusted offense level of 37.

17 "This level carries a range of imprisonment of 360  
18 months to life assuming the defendant falls within Criminal  
19 History Category VI. However, because of the statutory  
20 maximum sentence, the effective guidelines range is 180  
21 months. The defendant stipulates to the above guidelines  
22 calculation.

23 "3. The guideline estimate set forth in paragraph  
24 two is not binding on the Office, the Probation Department or  
25 the Court. If the guidelines offense level advocated by the

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1 Office or determined by the Probation Department or the court  
2 is, for any reason, including an error in the estimate  
3 different from the estimate, the defendant will not be  
4 entitled to withdraw the plea and the Government will not be  
5 deemed to have reached this agreement.

6 "4. The defendant agrees not to file an appeal or  
7 otherwise challenge by petition pursuant to 28 U.S.C. Section  
8 2255 or any other provision the convictions for sentence in  
9 the event the Court imposes a term of imprisonment of 180  
10 months or below. This waiver is binding without regard to the  
11 sentencing analysis used by the Court.

12 "The defendant waives all defenses based on the  
13 statute of limitations and venue with respect to any  
14 prosecution that is not time barred on the date that this  
15 agreement is signed in the event that; A, the defendant's  
16 conviction is later vacated for any reason; B, the defendant  
17 violates this agreement or; C, the defendant's plea is later  
18 withdrawn.

19 "Nothing in the foregoing waiver of Appellate and  
20 collateral review rights shall preclude the defendants from  
21 raising a claim of ineffective assistance of counsel in an  
22 appropriate forum.

23 "The defendant waives any rights to additional  
24 disclosure from the Government in connection with the guilty  
25 plea. The defendant agrees that with respect to all charges

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1 referred to in paragraphs 1 and 5-A, he is not a prevailing  
2 party within the meaning of the Hyde Amendment and will not  
3 file any claim under that law.

4 The defendant agrees to pay the special assessment  
5 by check payable to the clerk of the court at or before  
6 sentencing. The defendant understands that he may be subject  
7 to removal as set forth in paragraph 6 below.

8 "Nonetheless, if the defendant affirms that he wants  
9 to plead guilty and waive his right to appeal as set forth at  
10 the beginning of this paragraph even if the consequence is the  
11 defendant's automatic removal from the United States.

12 "5. The Office agrees that, A, no further criminal  
13 charges will be brought against the defendant --

14 MR. PERLMUTTER: One second, Your Honor.

15 (Pause in the proceedings.)

16 THE COURT: "The Office agrees that, A, no further  
17 criminal charges will be brought against the defendant for, 1,  
18 conspiring to provide and attempting to provide material  
19 support to the Islamic State of Iraq and Lebanon, ISIL between  
20 August 2014 and February 2015; 2, conspiring to use a firearm  
21 during and in relation to the conspiracy and attempt to  
22 provide material support to ISIL between January 2015 and  
23 February 2015.

24 "And, 3, making false statements in an application  
25 for a travel document to facilitate an act of international

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1 terrorism between January 2015 and February 2015, all as  
2 charged in the indictment as being understood that this  
3 agreement does not bar the use of such conduct as a predicate  
4 act or as a basis for a sentencing enhancement in the  
5 subsequent prosecution including, but not limited to, a  
6 prosecution pursuant to 18 U.S.C. Sections 1961 et seq, and at  
7 the time of sentence it will move to dismiss the remaining  
8 counts of the indictment and any underlying indictment's  
9 prejudice.

10 "And, based upon information now known to the  
11 Office, it will take no position concerning where within the  
12 guidelines range determined by the court the sentence should  
13 fall.

14 "And, C, make no mention for an upward departure  
15 under the sentencing guidelines. If information relevant to  
16 sentencing as determined by the Office becomes known to the  
17 office after the date of this agreement, the Office will not  
18 be bound by paragraph 5(b) and 5(c).

19 "Should it be judged by the Office that the  
20 defendant has violated any provision of this agreement, the  
21 defendant will not be released from his plea of guilty but  
22 this office will be released from its obligations under the  
23 agreement, including but not limited to; A, moving for the  
24 additional one level downward adjustment for timely acceptance  
25 of responsibility described in paragraph 2 above and, B, the



1 provisions of paragraphs 5-A through C.

2           6. The defendant acknowledges that he is not a  
3 citizen of the United States and recognizes that pleading  
4 guilty may have consequences with respect to the defendant's  
5 immigration status.

6           Under federal law, a broad range of crimes are  
7 removable offenses including the offense to which the  
8 defendant is pleading guilty. Because the defendant is  
9 pleading guilty to a terrorism-related offense removal is  
10 presumptively mandatory. Removal and other immigration  
11 consequences are the subject of a separate proceeding,  
12 however, and the defendant understands that no one, including  
13 the defendant's attorney or this district court can predict  
14 with certainty the effects of the defendant's conviction to  
15 the defendant's immigration status.

16           The defendant understands that it is the intent of  
17 the United States to seek to remove the defendant promptly  
18 upon the completion of his criminal sentence of imprisonment.

19           The defendant nevertheless affirms the defendant  
20 wants to plead guilty regardless of any immigration  
21 consequences the defendant's plea may entail, even if the  
22 consequence is the defendant's automatic removal from the  
23 United States.

24           "7. This agreement does not bind any federal, state  
25 or local prosecuting authority other than the Office and does

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1 not prohibit the Office from initiating or prosecuting any  
2 civil or administrative proceedings, directly or indirectly  
3 involving the defendant.

4 "8. Apart from any written proffer agreements, if  
5 applicable, no promises, agreements or conditions have been  
6 entered into by the parties other than those set forth in this  
7 agreement and none will be entered into unless memorialized in  
8 writing and signed by all parties. Apart from any written  
9 proffer agreement, if applicable, this agreement supersedes  
10 all prior promises, agreements or conditions between the  
11 parties. To become effective this agreement must be signed by  
12 all signatories below."

13 Brooklyn, New York, January 19, 2017. It is signed  
14 on behalf of Robert L. Capers, United States Attorney by  
15 Douglas M. Pravda over the signature line of Mr. Pravda and  
16 Alexander Solomon and Peter Baldwin, Assistant United States  
17 attorneys, approved by Seth D. DuCharme, Supervising Assistant  
18 U.S. Attorney.

19 It states, "I have read the entire agreement and  
20 discussed it with my attorney. I understand all of its terms  
21 and am entering into it knowingly and voluntarily." Signed by  
22 the defendant, Akhror Saidakhmetov, and approved by Mr. Adam  
23 Perlmutter, Esquire, counsel to the defendant.

24 Again, this is Court 2, the plea agreement. Could I  
25 have a motion to have court 2 admitted in evidence? Any

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1 objection?

2 MR. PERLMUTTER: No objection, Judge.

3 THE COURT: Okay, it's in.

4 (Court Exhibit 2, received in evidence.)

5 THE COURT: Do we have any other documents that need  
6 to be handed up to Mr. Jackson at this time that the Court has  
7 not seen that are relevant to this plea?

8 MR. PRAVDA: No, Your Honor.

9 MR. PERLMUTTER: No, Your Honor. No, sir.

10 THE COURT: Are you sure about that? You don't have  
11 any documents concerning the rule that you need to hand up at  
12 this time?

13 MR. PRAVDA: There are no additional documents that  
14 are relevant to this plea, Your Honor.

15 THE COURT: Thank you.

16 Mr. Saidakhmetov, unless your counsel or the  
17 prosecution or both wishes to be heard or has an objection at  
18 this point, the Court will turn to the final procedures  
19 pertaining to your plea in this case.

20 Mr. Saidakhmetov, your attorney advises this court  
21 that you wish to plead guilty to Count One of the superseding  
22 indictment pursuant to the plea agreement which I have read or  
23 offered to read to you.

24 Do you need me to read the superseding indictment  
25 and/or the plea agreement to you again?

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1 THE DEFENDANT: No, it's enough.

2 THE COURT: I say again, sir, this is a serious  
3 decision and I must be certain that you make it understanding  
4 your rights and the consequences of your plea. Do you  
5 understand that having been sworn to tell the truth to this  
6 court you must do so?

7 If you were to lie to this court deliberately in  
8 response to any question I ask you, you would face further  
9 criminal charges of perjury. Do you understand?

10 THE DEFENDANT: Yes.

11 THE COURT: If you need me to repeat anything, all  
12 you have to do is ask. It is important that you understand  
13 everything that is going on in these proceedings today. Is  
14 that clear?

15 THE DEFENDANT: Yes.

16 THE COURT: Mr. Saidakhmetov, I must be certain that  
17 whatever decision you make today you make with a clear head so  
18 I am going to ask you some questions about your health.

19 Are you presently or have you recently been under  
20 the care of any kind of doctor, psychiatrist, physician or  
21 psychologist for any reason?

22 THE DEFENDANT: No.

23 THE COURT: In the past 24 hours have you taken any  
24 pills, any drugs or any medicine of any kind?

25 THE DEFENDANT: No.

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1 THE COURT: Have you ever been hospitalized or  
2 treated for any drug-related problem?

3 THE DEFENDANT: No.

4 THE COURT: Have you ever participated in a  
5 court-ordered drug treatment program?

6 THE DEFENDANT: No.

7 THE COURT: In the past 24 hours have you consumed  
8 any alcoholic beverages?

9 THE DEFENDANT: No.

10 THE COURT: Have you ever been hospitalized or  
11 treated for any alcohol-related problem?

12 THE DEFENDANT: No.

13 THE COURT: Have you ever participated in a  
14 court-ordered alcohol treatment program.

15 THE DEFENDANT: No.

16 THE COURT: Is your mind clear as you sit here  
17 today?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you understand everything that is  
20 being said to you today?

21 THE DEFENDANT: Yes.

22 THE COURT: Defense counsel, have you discussed the  
23 question of a guilty plea with your client?

24 MR. PERLMUTTER: Yes, Your Honor.

25 THE COURT: In your view, sir, does your client

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1 understand the rights he would be waiving by pleading guilty?

2 MR. PERLMUTTER: Yes, Your Honor.

3 THE COURT: Defense counsel, do you have any  
4 question at all as to your client's competence to proceed  
5 today?

6 MR. PERLMUTTER: No, Your Honor.

7 THE COURT: Mr. Saidakhmetov, are you satisfied with  
8 the assistance your attorney has given you thus far in your  
9 case?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you believe that you have received  
12 the effective assistance of counsel in your case?

13 THE DEFENDANT: Yes.

14 THE COURT: Sir, if you come to believe that you  
15 have not received the effective assistance of counsel in your  
16 case, you have a right to appeal on that basis.

17 Counsel for the defendant, do you feel you need more  
18 time to discuss the question of a guilty plea with your  
19 client?

20 MR. PERLMUTTER: No, Your Honor.

21 THE COURT: Mr. Saidakhmetov, I have previously read  
22 or offered to read to you the superseding indictment. Do you  
23 need me to read it to you at this time?

24 THE INTERPRETER: Can you repeat the last portion,  
25 please?

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1 THE COURT: I have previously offered to read to you  
2 the superseding indictment. Do you need me to read to you the  
3 superseding indictment at this time?

4 THE DEFENDANT: No.

5 THE COURT: Mr. Saidakhmetov, you have a right to  
6 plead not guilty. No one can be forced to plead guilty. Do  
7 you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: If you plead not guilty or if you  
10 persist in your plea of not guilty you have a right under the  
11 under the laws of the United States to a speedy and public  
12 trial before a jury of your peers with the assistance of your  
13 counsel. Do you understand?

14 THE DEFENDANT: Yes.

15 THE COURT: At any trial, sir, you would be presumed  
16 to be innocent. You would not have to prove that you, in  
17 fact, were innocent. This is because under the laws of the  
18 United States, it is the Government that must come forward  
19 with proof that establishes beyond a reasonable doubt that you  
20 are in fact guilty of the crime charged.

21 If the Government failed to meet this burden of  
22 proof, the jury would have the duty to find you not guilty.  
23 Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: During the course of a trial, witnesses

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1 for the Government would have to come here to this court and  
2 to testify in your presence. You would have the right to have  
3 your own lawyer cross-examine these witnesses.

4 Your own lawyer could raise legal objections to the  
5 evidence the Government sought to offer against you. Your  
6 attorney could offer evidence on your behalf if he thought  
7 there was evidence that might help you in your case.

8 Your lawyer could compel witnesses to come to court  
9 and to testify in your defense if you thought it would help  
10 your case. Do you understand?

11 THE DEFENDANT: Yes.

12 THE COURT: At a trial, sir, you would have the  
13 right to testify on your own behalf if you wish to do so. On  
14 the other hand, you could not be forced to be a witness at  
15 your trial.

16 This is because under the Constitution and laws of  
17 the United States no person can be compelled to be a witness  
18 against himself. If you wish to go to trial, but chose not to  
19 testify, the Court would instruct the jury that it could not  
20 hold that against you. Do you understand that?

21 THE DEFENDANT: Yes, I do.

22 THE COURT: If instead of going to trial you plead  
23 guilty to the crime charged and if I accept your guilty plea,  
24 you will be giving up your right to a trial and all the other  
25 rights I have just discussed.



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1           There will be no trial in this case. There will be  
2 no appeal on the question of whether you did or you did not  
3 commit the crime set forth in Count One of the superseding  
4 indictment.

5           Pursuant to paragraph 4 of your plea agreement, you  
6 can appeal or otherwise challenge your conviction or sentence  
7 only if the sentence I impose exceeded 180 months of  
8 imprisonment.

9           If I thereafter impose a sentence that fell above  
10 that range, you would have a right to appeal or otherwise  
11 challenge that sentence to a higher court. Is that  
12 understood?

13           THE DEFENDANT: Yes, I do.

14           THE COURT: In sum, sir, you are waiving any right  
15 to appeal or challenge any conviction or sentence if the Court  
16 imposes a term at or below 180 months of imprisonment.

17           If you elect to violate that agreement and file an  
18 appeal resulting in your sentence being vacated or set aside  
19 or if you otherwise challenge your conviction or sentence, you  
20 could very well face a much greater sentence than the one you  
21 receive under this plea agreement, specifically a sentence of  
22 up to 15 years of imprisonment which is the statutory maximum  
23 provided by the Congress of the United States.

24           Do you understand that?

25           THE DEFENDANT: Yes.

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1           THE COURT: So, to be crystal clear, if I were to  
2 sentence you to more than 180 months of imprisonment,  
3 regardless of how I do it, you would have a right to appeal or  
4 otherwise challenge the sentence. If you could no longer at  
5 that point afford the fees and expenses associated with the  
6 appeal or challenge including counsel fees, you could apply to  
7 the Court for the appointment of counsel and the fees and  
8 expenses would be paid pursuant to prescribed rates set by the  
9 Government pursuant to its authority under the Criminal  
10 Justice Act.

11           Do you understand?

12           THE DEFENDANT: Yes.

13           MR. PERLMUTTER: Your Honor, just to be clear, under  
14 the agreement the maximum to which the Court could sentence  
15 him would be the statutory maximum 15 years.

16           MR. PRAVDA: So if you could just advise the  
17 defendant that because he is waiving any right to appeal the  
18 sentence at the statutory maximum or below, he's effectively  
19 waiving any right to appeal the conviction or sentence at all.

20           THE COURT: Read back what your counsel just said  
21 and let's make sure that your client understands it.

22           (Record read.)

23           THE COURT: That is a correct statement. Is that  
24 what your client understands?

25           MR. PERLMUTTER: Yes, it is.

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1 THE COURT: Is that what the prosecution  
2 understands?

3 MR. PRAVDA: Yes, Your Honor.

4 THE COURT: Are we all in agreement?

5 MR. PERLMUTTER: Yes, Your Honor. The only thing is  
6 that he can't waive, at this point, a claim of ineffective  
7 assistance of counsel which is reflected in the plea  
8 agreement. With that said --

9 THE COURT: You said what?

10 MR. PERLMUTTER: The plea agreement indicates that  
11 his rights do not preclude him raising a claim of ineffective  
12 assistance of counsel in the appropriate forum. Of course  
13 Your Honor has already allocuted him on that issue; that he's  
14 satisfied with the representation that he's received, that he  
15 thinks it's been effective. Just to be clear that there is  
16 that one issue that remains pursuant to the plea agreement.

17 THE COURT: He still has the right to challenge  
18 effective assistance of counsel on appeal.

19 MR. PERLMUTTER: Yes, of course.

20 THE COURT: He can raise it here or he can raise it  
21 on appeal.

22 MR. PERLMUTTER: Yes, Judge. I probably didn't say  
23 it as clearly as I could have.

24 THE COURT: There is Second Circuit authority that  
25 states that.

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1 MR. PERLMUTTER: Yes, Your Honor.

2 THE COURT: Are we clear?

3 MR. PRAVDA: Yes, Your Honor,

4 THE COURT: Are we clear?

5 MR. PERLMUTTER: Yes, we are, Your Honor. Thank  
6 you.

7 THE COURT: Good. Nothing in the plea agreement,  
8 however, prevents you from raising a claim of ineffective  
9 assistance of counsel at an appropriate time and in an  
10 appropriate forum. That was my next sentence.

11 Are we all on board? Is that clear? Sir,  
12 Mr. Defendant, is that clear to you?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: If you do plead guilty, sir, I will have  
15 to ask you certain questions about what you did and where you  
16 did it in order to satisfy myself that you are, in fact,  
17 guilty of the charge in count one of the superseding  
18 indictment. You will have to answer my questions and to  
19 acknowledge your guilt. If you do so, you will be giving up  
20 your right not to incriminate yourself T do you understand,  
21 sir?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Mr. Saidakhmetov, are you willing to  
24 give up your right to a trial and all the other rights I have  
25 just discussed with you?

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1 THE DEFENDANT: Yes, I do.

2 THE COURT: Is there any other agreement other than  
3 the written plea agreement and written proffer agreements if  
4 applicable that has been reached or made in order to get you  
5 to plead guilty?

6 THE DEFENDANT: No.

7 THE COURT: Sir, do you understand the consequences  
8 of pleading guilty to Count One of the superseding indictment  
9 in terms of incarceration?

10 THE DEFENDANT: Yes.

11 THE COURT: Let me take you back to the plea  
12 agreement and discuss with you some important information  
13 relevant to sentencing.

14 Paragraph 1 of your agreement sets out the statutory  
15 terms that you face. These are the penalties written directly  
16 by Congress for violation of the statute you are charged with  
17 today. You face a maximum term of 15 years of imprisonment.  
18 Do you understand that, sir?

19 THE DEFENDANT: Yes.

20 THE COURT: You face a minimum term of zero years of  
21 imprisonment. Do you understand that, sir?

22 THE DEFENDANT: Yes.

23 THE COURT: You face a maximum supervised release  
24 term of life following any term of imprisonment. Do you  
25 understand that, sir?

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1 THE DEFENDANT: Yes.

2 THE COURT: If you violate a condition of release,  
3 you may be sentenced to up to two years of imprisonment  
4 without credit for pre-release imprisonment or time previously  
5 served on post-release supervision. Do you understand that,  
6 sir?

7 THE DEFENDANT: Yes.

8 THE COURT: You face a maximum fine as well in the  
9 amount of \$250,000. Do you understand that?

10 THE DEFENDANT: Yes.

11 THE COURT: You face restitution in an amount to be  
12 determined by this court. Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: You face a mandatory special assessment  
15 of \$100 which I am required to impose in all cases per  
16 individual, per count.

17 Do you understand that?

18 THE DEFENDANT: Are I didn't understand this part.  
19 To whom I need to pay this amount?

20 MR. PERLMUTTER: To the Court.

21 I'll talk to you about that.

22 He understands, Your Honor. You can ask him again  
23 though.

24 THE COURT: You understand, sir?

25 THE DEFENDANT: Yes.

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1 THE COURT: Mr. Saidakhmetov, you are not a citizen  
2 of the United States as you have stated. You face the  
3 possibility, therefore, of deportation and removal from this  
4 country. Do you understand that, sir?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: Sir, this is a sentencing guidelines  
7 case so in sentencing you, this court will have to consider  
8 certain guidelines. The guidelines do not control this court,  
9 but inform this court.

10 Has defense counsel discussed the sentencing  
11 guideline with the defendant?

12 THE DEFENDANT: Yes.

13 THE COURT: Sir, when the Court sentences you, the  
14 Court will have to consider certain factors about you and  
15 about Count One of the superseding indictment. That inquiry  
16 will lead this court to a guideline sentencing guideline  
17 range. This court is not required to sentence you within that  
18 range.

19 This court is empowered to impose a sentence which  
20 is less than, equal to or greater than that provided by the  
21 guidelines but in all cases subject to the mandatory maximum  
22 under the statute.

23 MR. PERLMUTTER: Your Honor, one second.

24 THE COURT: Would you read it back, please?

25 (Record read.)

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1 THE DEFENDANT: Yes.

2 THE COURT: Before the Court imposes sentence, the  
3 Court will receive a report prepared by the Probation  
4 Department which will recommend a particular sentence to the  
5 Court.

6 You and your lawyer will have the opportunity to see  
7 that report and if you think that report is mistaken,  
8 incomplete or simply wrong in any way, you will have ample  
9 opportunity to bring that to the attention of the court.

10 Counselor, do you have any questions you would like  
11 to ask this court?

12 MR. PERLMUTTER: No, Your Honor.

13 THE DEFENDANT: No.

14 THE COURT: Does defense counsel have any questions  
15 you would like to ask the Court at this point?

16 MR. PERLMUTTER: No questions, Judge.

17 THE COURT: Is there anything defense counsel would  
18 like the Court to address at this time?

19 MR. PERLMUTTER: No, Your Honor.

20 THE COURT: Is there anything the assistant United  
21 States attorney would like to ask the Court at this time?

22 MR. PRAVDA: No, Your Honor.

23 THE COURT: Are there any other questions the  
24 assistant United States Attorney would like the Court to  
25 address at this time?



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1 MR. PRAVDA: No, Your Honor.

2 THE COURT: Defense Counsel, do you know of any  
3 reason why your client should not enter a plea of guilty to  
4 Count One of the superseding indictment?

5 MR. PERLMUTTER: No, Your Honor.

6 THE COURT: Defense Counsel, are you aware of any  
7 viable legal defense to the charges contained in Count One of  
8 the superseding indictment?

9 MR. PERLMUTTER: No, Your Honor.

10 THE COURT: Mr. Saidakhmetov, are you ready to  
11 plead?

12 THE DEFENDANT: Yes.

13 THE COURT: Sir, how do you plead to Count One of  
14 the superseding indictment filed in this case, guilty or not  
15 guilty?

16 THE DEFENDANT: Guilty.

17 THE COURT: Are you making this plea of guilty  
18 voluntarily?

19 THE DEFENDANT: Yes.

20 THE COURT: Are you making this plea of guilty of  
21 your own free will?

22 THE DEFENDANT: Yes.

23 THE COURT: Has anyone forced you to plead guilty?

24 THE DEFENDANT: No.

25 THE COURT: Has anyone threatened you to plea

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1 guilty?

2 THE DEFENDANT: No.

3 THE COURT: Other than the agreement with the  
4 Government and any written proffer agreements if applicable,  
5 has anyone made you any promise that caused you to plead  
6 guilty?

7 THE DEFENDANT: No.

8 THE COURT: Has anyone made you any promise about  
9 the sentence you will receive from this court?

10 THE DEFENDANT: No.

11 THE COURT: Describe briefly in your own words what  
12 you did to commit the crimes charged in Count One of the  
13 superseding indictment and where you did it.

14 THE DEFENDANT: Between August 2014 and 2015, we had  
15 a conspiracy with others regarding -- that help. And I was a  
16 member of this conspiracy and I was knowing that this was  
17 illegal. So between us we have conspiracy to provide the  
18 material support to ISIL. And during this conspiracy I know  
19 that this -- that ISIL is considered as a terroristic  
20 organization by the Department of State. So this -- the  
21 violation happened Brooklyn and other places.

22 THE COURT: Would you read the answer back, please?  
23 (Record read.)

24 THE COURT: You say August 2014 and 2015; is that  
25 right?

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1 THE DEFENDANT: Yes.

2 THE COURT: Any particular month in 2015 or just  
3 2015 in general?

4 THE DEFENDANT: February.

5 THE COURT: And this was done where?

6 THE DEFENDANT: In Brooklyn and other places.

7 THE COURT: Brooklyn, New York in the Eastern  
8 District of New York in the United States of America?

9 THE DEFENDANT: Yes.

10 THE COURT: You used the term ISIL, what do you mean  
11 by ISIL?

12 THE DEFENDANT: Islamic State of Iraq and Lebanon.

13 THE COURT: And what do you understand ISIL to be?

14 THE DEFENDANT: I knew that this is the terroristic  
15 organization and designated by the Department of State of the  
16 United States.

17 THE COURT: What do you mean by terrorist  
18 organization?

19 MR. PERLMUTTER: Your Honor, my understanding is  
20 that he just has to be aware that the organization had been  
21 designated by the Secretary of State as a terrorist  
22 organization.

23 THE COURT: I'm asking him what his understanding of  
24 what those words was, terrorist organization, if he has an  
25 understanding.

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1 THE DEFENDANT: This is scaring civilians.

2 THE COURT: How?

3 THE DEFENDANT: In my understanding, this is an  
4 organization that's comitting violent acts against the people.

5 THE COURT: Is there anything else the Government  
6 would like the Court to ask the defendant?

7 First, has he completed his answer?

8 MR. PERLMUTTER: Judge, there's nothing else to add  
9 at this point.

10 THE COURT: Is there anything else the Government  
11 would like the Court to ask the defendant?

12 MR. PRAVDA: Nothing from the Government, Your  
13 Honor.

14 THE COURT: Is there anything else the defense  
15 counsel would like the Court to ask the defendant.

16 MR. PERLMUTTER: No, Your Honor.

17 THE COURT: Is there anything the defendant would  
18 like to say at this time?

19 THE DEFENDANT: No.

20 THE COURT: Based on the information given to me, I  
21 find the defendant is acting voluntarily; that he fully  
22 understands the charges; that he fully understands his rights  
23 and he fully understands the consequences of his plea.

24 There is, moreover, a factual basis for the plea and  
25 I therefore accept the plea of guilty to Count One of the

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1 superseding indictment. I hereby order the Probation  
2 Department to provide the pre-sentence investigation report  
3 within six months of this day which will be on or before July  
4 19, 2017.

5 Is there anything further that any counsel wishes to  
6 state to the Court today?

7 MR. PRAVDA: No, Your Honor, thank you.

8 MR. PERLMUTTER: No, Your Honor, thank you.

9 THE COURT: Thank you. Court is adjourned.

10 THE COURTROOM DEPUTY: Counsel, before you leave the  
11 courtroom please fill out the conviction notification form.

12 MR. PERLMUTTER: Yes.

13 THE COURTROOM DEPUTY: Thank you.

14 (Matter adjourned.)

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